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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DIAMOND STATE INSURANCE
COMPANY, an Indiana corporation,

Plaintiff,

v.

MARIN MOUNTAIN BIKES, INC., a
California corporation; and ATB SALES
LIMITED, a private limited liability
company in the United Kingdom,

Defendants.

CASE NO. 4:11-CV-05193-CW

**STIPULATION AND ORDER TO EXTEND
TIME FOR DEFENDANT MARIN
MOUNTAIN BIKES TO FILE
OPPOSITION TO PLAINTIFF DIAMOND
STATE INSURANCE COMPANY'S
MOTION FOR SUMMARY JUDGMENT,
OR ALTERNATIVELY, REQUEST FOR
DISMISSAL.**

Date: February 14, 2013
Time: 2:00 p.m.
Courtroom: 2 (4th Floor)
Judge: Hon. Claudia Wilken

Pursuant to Local Rules 6-2(a) and 7-12, Plaintiff Diamond State Insurance Company ("Diamond") and Defendant Marin Mountain Bikes, Inc. ("Marin") hereby stipulate and request that the Court order the extension of the deadline (by one week) for the filing an opposition by Marin to Diamond's Motion for Summary Judgment, or Alternatively, Request for Dismissal ("Motion") from January 24, 2013 to January 31, 2013, and correspondingly, extend Diamond's deadline to file a reply, from January 31, 2013 to February 7, 2013. Marin will not file a cross-motion for summary judgment, and the Motion's February 14, 2013 hearing date does not need to be extended to March 7, 2013, per the Court's January 14, 2013 Order Regarding Diamond's Motion for Summary Judgment.

This is the first request for an extension of time regarding the briefing schedule for this Motion.

IT IS SO STIPULATED,

Dated: January , 2013

DONAHUE GALLAGHER WOODS LLP

By: _____
Casey L. Williams
Attorneys for Defendant
MARIN MOUNTAIN BIKES, INC.

Dated: January , 2013

NIELSEN HALEY & ABBOTT, LLP

By: _____
Jennifer S. Cohn
Attorneys for Plaintiff
DIAMOND STATE INSURANCE COMPANY

DECLARATION OF ATTORNEY CASEY WILLIAMS

I, Casey L. Williams, Declare:

1. I am an attorney at Donahue Gallagher Woods LLP, attorneys for Defendant Marin Mountain Bikes, Inc. ("Marin"). Except as to those matters stated on information and belief, the information contained herein is based upon my personal knowledge. If called as a witness, I could competently testify thereto. As to those matters stated on information and belief, I believe them to be true.

2. I am submitting this declaration pursuant to Local Rule 6-2(a).

3. On January 10, 2013, Plaintiff Diamond State Insurance Company ("Diamond") filed a motion for summary judgment, or alternatively, request for dismissal ("Motion") with this Court.

4. January 24, 2013 is the deadline for Marin to file an opposition to Diamond's Motion.

5. The Motion is scheduled to be heard by this Court on February 14, 2013 at 2:00 p.m.

6. On January 15, 2013, Marin, by and through counsel, initiated settlement discussions with Diamond.

7. I am informed and believe that these discussions are ongoing and the parties wish to focus their current resources and time on these discussions, with the hope that the matter can be resolved, by providing Marin additional time to file a response to Diamond's Motion.

8. I have contacted counsel for Diamond and they agreed to extend Marin's time to file a response to Diamond's Motion by one week while the parties continue their discussions.

9. I am informed and believe that Parties' current discussions provide good cause to extend the deadline for Marin to file a response to Diamond's Motion by one week and that the parties do not anticipate that an additional extension will be required.

10. If Marin's deadline to file an opposition to the Motion is extended by one week, the deadline to file an opposition will be January 31, 2013.

11. If the deadline for Marin to file an opposition to Diamond's Motion is extended to

January 31, 2013, Diamond's reply will be due on February 7, 2013.

12. On January 14, 2013, this Court issued an order regarding Diamond's Motion for Summary Judgment and the affect that a cross-motion for summary judgment brought by Marin would have on the hearing scheduled for February 14, 2013.

13. I am informed and believe that Marin will not file a cross-motion for summary judgment and, therefore, the Motion hearing does not need to be continued to Wednesday, March 7, 2013 per the Court's January 14, 2013 Order.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: January 23, 2013

DONAHUE GALLAGHER WOODS LLP


By: _____

Casey L. Williams
Attorneys for Plaintiff
MARIN MOUNTAIN BIKES, INC.

PURSUANT TO THE ABOVE STIPULATION, IT IS SO ORDERED. **THE MOTION FOR SUMMARY JUDGMENT AND A FURTHER CASE MANAGEMENT CONFERENCE WILL BE HELD ON MARCH 7, 2013, AT 2:00 P.M. A CASE MANGEMENT STATEMENT IS DUE FEBRUARY 28, 2013.**

Dated: 1/23/2013

By: _____


Hon. Claudia Wilken
United States District Court Judge

PROOF OF SERVICE

I declare that I am employed in the County of Alameda, State of California. I am over the age of eighteen years at the time of service and not a party to the within cause. My employment address is 1999 Harrison Street, 25th Floor, Oakland, California 94612-3520.

On January 23, 2013, I served copies of the attached document(s) entitled:

- **STIPULATION AND ORDER TO EXTEND TIME FOR DEFENDANT MARIN MOUNTAIN BIKES TO FILE OPPOSITION TO PLAINTIFF DIAMOND STATE INSURANCE COMPANY'S MOTION FOR SUMMARY JUDGMENT, OR ALTERNATIVELY, REQUEST FOR DISMISSAL.**

on the interested parties in this action, by placing a true and correct copy thereof enclosed in a sealed envelope, addressed as follows:

Jennifer S. Cohn, Esq.
jcohn@nielsenhaley.com
 Nielsen Haley & Abbot LLP
 44 Montgomery Street, Suite 750
 San Francisco, California 94104

- ☒ **BY U.S. MAIL AND ELECTRONIC MAIL.** I placed such envelope, addressed as above by first-class mail, postage prepaid, for collection and mailing at my business address following our ordinary business practices. I am readily familiar with our ordinary business course of collection and processing of correspondence for mailing with the U.S. Postal Service. In the ordinary course of business on the same day that correspondence is placed for collection and mailing, it is deposited with the U.S. Postal Service for delivery to the addressee.
- ☐ **BY FEDERAL EXPRESS.** I deposited such envelope in a Federal Express depository at Oakland, California.
- ☐ **BY PERSONAL SERVICE.** I delivered such envelope by hand to the offices of the addressee(s).
- ☐ **BY FACSIMILE SERVICE.** I transmitted such document(s) via facsimile to the offices of the addressee(s).
- ☐ **STATE.** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
- ☒ **FEDERAL.** I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on January 21, 2012, at Oakland, California.

 Pam Trempel

Name of Case: *Diamond State Insurance Company v. Marin Mountain Bikes, et al.*

Name of Court and Case Number: *U.S. District Court, Northern District of California, Case No. 4:11-cv-05193*